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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5889-2023 (O&M)
Date of Decision: 21.02.2024

Sukhwinder Singh

.. Petitioner

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Arshit Goel, Advocate for the petitioner.
Mr. Anup Singh, AAG, Punjab.
...

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.116 dated 24.12.2022, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women, District Patiala.
2. On 24.03.2023, the following order was passed:

“Learned counsel for the petitioner states that he wants to implead the complainant/wife as one of the respondent by filing an application as he wants to settle down the dispute between husband and wife.

Status report dated 24.03.2023 by way of an affidavit of Chand Singh, PPS, Deputy Superintendent of Police, PBI/Crime against Women and Children, District Patiala on behalf of the respondent-State has been filed today in the Court and the same is taken on record. Copy thereof has been supplied to the counsel opposite.

Learned counsel representing the State has pointed out that some of the dowry articles have been recovered as per recovery memo dated 14.03.2023. Copy of list of dowry articles has also filed by learned counsel for the State today in the Court and the same is taken on record. Copy thereof has been furnished to learned counsel for the petitioner as he wants to hand over the dowry articles and join the

investigation.

Considering the aforesaid facts, the arrest of the petitioner shall remain stayed till the next date of hearing, subject to joining of investigation.

List on 05.05.2023.”

3. Learned State counsel, on instructions from HC Mahinder Singh, has stated that pursuant to the order dated 24.03.2023, the petitioner has joined investigation and is no longer required for custodial interrogation except for effecting recovery.

4. Learned counsel for the petitioner has submitted that no dowry articles/Istri-dhan as alleged are in possession of the petitioner.

5. I have heard the learned counsel for the rival parties and have perused the paper book.

6. It will be apposite to refer to a judgment dated 12.02.2024 passed by this Court in CRM-M-60647-2023 titled as **“Varun Sharma Vs. State of Punjab and another”**, relevant whereof reads as under:

“11. As a sequel to the above said discussion, the following principles of law emerge:-

(I) Non-recovery of dowry articles/Istri-dhan cannot ordinarily be a ground, by itself, for declining a plea for grant of anticipatory bail to the husband or his relatives.

(II) The conduct of an accused, is indeed, a relevant factor for consideration of a plea for grant of anticipatory bail on behalf of such accused. Such conduct would also include the cooperation, in accordance with law, extended by such accused for recovery of dowry articles/Istri-dhan. Whether or not such cooperation was extended by the accused would be ascertainable from the facts and circumstances of a given case.

(III) In exceptional cases, if the peculiar and/or accentuating facts/circumstances of the case so warrant, a Court would be well within its discretion to pass a direction to the petitioner- accused to deposit in Court or remit to the complainant-wife an appropriate amount

towards the Istri-dhan/dowry articles. Needless to state herein that it is neither possible nor desirable to enumerate a set of guidelines in this regard & a Court would have to exercise its judicial discretion in this regard in the facts and circumstances of a given case.”

7. Non-recovery of dowry articles/Istridhan in entirety thereof cannot, by itself, be a cause for rejection of the present plea for anticipatory bail by the petitioner especially when the State does not require custodial interrogation of petitioner on any other count except for effecting recovery of remaining dowry articles/Istridhan. The aspect, as to what all are the dowry articles/Istridhan in question in the present case & whether the entire dowry articles have been recovered or not, shall be essentially gone into during the course of trial. No accentuating circumstances are decipherable, from the factual matrix of the present case, so as to direct the petitioner to deposit any amount towards the alleged non-recovery of complete dowry articles. No such misconduct by the petitioner has been pointed out which may dissuade this Court from confirming the interim anticipatory bail to the petitioner.

8. In view of above, the petition is allowed and interim order dated 24.03.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

9. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

10. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition

stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.

11. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
12. Pending application(s), if any, shall also stand disposed off.

21.02.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No